

Remarks

Currently Claims 1 and 3-8 are pending. Claims 1, 7 and 8 are amended and claim 2 is cancelled herein.


Claim 1 is amended to incorporate the subject matter of claim 2. While Applicants do not agree with the Examiner's rationale, this amendment renders moot the rejection of claims 1 and 5-8 under 35 U.S.C. §103(a).

Claims 1, 7 and 8 are amended to remove the language "physiologically functional derivative." While Applicants do not agree with the Examiner's rationale, this amendment renders moot the rejection under 35 U.S.C. §112, second paragraph.

The Examiner has stated that "there is a valence problem" when Het is a heteroaryl substituted by oxo. Applicants respectfully submit that "Het" is defined as heterocycle or heteroaryl and thus one skilled in the art would interpret this claim consistent with the knowledge in the art that a heterocycle may be substituted by an oxo group. It is respectfully submitted that the nature of claiming chemical inventions is such that the claims may in some instances encompass inoperative embodiments. The law recognizes the complexity of claiming chemical inventions and the Federal Circuit has held that a claim may encompass inoperative embodiments and still meet the requirements of section §112. *Atlas Powder Co. v. E.I. DuPont De Nemours & Co.*, 750 F.2d 1569, 1576, 224 USPQ409, 413 (Fed. Cir. 1984). *See also*, MPEP 2164.08(b).

All outstanding rejections having been addressed in full, Applicants respectfully submit that the instant application is in condition for allowance, which action is respectfully requested. The Examiner is invited to contact the undersigned at (919) 483-8222, to discuss this case, if desired.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'L. Morgan', with a long horizontal flourish extending to the left.

Lorie Ann Morgan
Attorney for Applicants
Registration No. 38,181

Date: 30 June, 2008
GlaxoSmithKline Inc.
Five Moore Drive, PO Box 13398
Research Triangle Park
North Carolina 27709
(919) 483-8222
fax: (919) 483-7988